

“(a) IN GENERAL.—Notwithstanding any other provision of law, the Drug Enforcement Administration and the Federal Bureau of Investigation are authorized on and after October 1, 1988, to pay bonuses up to 25 percent of base pay to employees of the Drug Enforcement Administration and the Federal Bureau of Investigation who possess and make substantial use of one or more languages, other than English, in the performance of their official duties. The Administrator of the Drug Enforcement Administration and the Director of the Federal Bureau of Investigation shall develop such policies as necessary to implement the payment of these bonuses.

“(b) LIMITATION.—The provisions of this section shall apply only to an employee who has received a bonus under this section before January 1, 1992. The provisions of subchapter III of chapter 45 of title 5, United States Code, shall apply to any employee who would otherwise be eligible to receive a bonus under this section, on and after such date.”

§ 5542. Overtime rates; computation

(a) For full-time, part-time and intermittent tours of duty, hours of work officially ordered or approved in excess of 40 hours in an administrative workweek, or (with the exception of an employee engaged in professional or technical engineering or scientific activities for whom the first 40 hours of duty in an administrative workweek is the basic workweek and an employee whose basic pay exceeds the minimum rate for GS-10 (including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under section 5305 or similar provision of law) for whom the first 40 hours of duty in an administrative workweek is the basic workweek) in excess of 8 hours in a day, performed by an employee are overtime work and shall be paid for, except as otherwise provided by this subchapter, at the following rates:

(1) For an employee whose basic pay is at a rate which does not exceed the minimum rate of basic pay for GS-10 (including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under section 5305 or similar provision of law), the overtime hourly rate of pay is an amount equal to one and one-half times the hourly rate of basic pay of the employee, and all that amount is premium pay.

(2) For an employee whose basic pay is at a rate which exceeds the minimum rate of basic pay for GS-10 (including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under section 5305 or similar provision of law), the overtime hourly rate of pay is an amount equal to the greater of one and one-half times the hourly rate of the minimum rate of basic pay for GS-10 (including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under section 5305 or similar provision of law) or the hourly rate of basic pay of the employee, and all that amount is premium pay.

(3) Notwithstanding paragraphs (1) and (2) of this subsection for an employee of the Department of Transportation who occupies a non-managerial position in GS-14 or under and, as

determined by the Secretary of Transportation,

(A) the duties of which are critical to the immediate daily operation of the air traffic control system, directly affect aviation safety, and involve physical or mental strain or hardship;

(B) in which overtime work is therefore unusually taxing; and

(C) in which operating requirements cannot be met without substantial overtime work;

the overtime hourly rate of pay is an amount equal to one and one-half times the hourly rate of basic pay of the employee, and all that amount is premium pay.

(4) Notwithstanding paragraph (2) of this subsection, for an employee who is a law enforcement officer, and whose basic pay is at a rate which exceeds the minimum rate of basic pay for GS-10 (including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under section 5305 or similar provision of law), the overtime hourly rate of pay is an amount equal to the greater of—

(A) one and one-half times the minimum hourly rate of basic pay for GS-10 (including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under section 5305 or similar provision of law); or

(B) the hourly rate of basic pay of the employee,

and all that amount is premium pay.

(5) Notwithstanding paragraphs (1) and (2), for an employee of the Department of the Interior or the United States Forest Service in the Department of Agriculture engaged in emergency wildland fire suppression activities, the overtime hourly rate of pay is an amount equal to one and one-half times the hourly rate of basic pay of the employee, and all that amount is premium pay.

(6)(A) Notwithstanding paragraphs (1) and (2), for an employee of the Department of the Navy who is assigned to temporary duty to perform work aboard, or dockside in direct support of, the nuclear aircraft carrier that is forward deployed in Japan and who would be nonexempt under the Fair Labor Standards Act but for the application of the foreign area exemption in section 13(f) of that Act (29 U.S.C. 213(f)), the overtime hourly rate of pay is an amount equal to one and one-half times the hourly rate of basic pay of the employee, and all that amount is premium pay.

(B) Subparagraph (A) shall expire on September 30, 2014.

(b) For the purpose of this subchapter—

(1) unscheduled overtime work performed by an employee on a day when work was not scheduled for him, or for which he is required to return to his place of employment, is deemed at least 2 hours in duration; and

(2) time spent in a travel status away from the official-duty station of an employee is not hours of employment unless—

(A) the time spent is within the days and hours of the regularly scheduled administrative workweek of the employee, including regularly scheduled overtime hours; or

(B) the travel (i) involves the performance of work while traveling, (ii) is incident to travel that involves the performance of work while traveling, (iii) is carried out under arduous conditions, or (iv) results from an event which could not be scheduled or controlled administratively, including travel by an employee to such an event and the return of such employee from such event to his or her official-duty station.

(c) Subsection (a) shall not apply to an employee who is subject to the overtime pay provisions of section 7 of the Fair Labor Standards Act of 1938. In the case of an employee who would, were it not for the preceding sentence, be subject to this section, the Office of Personnel Management shall by regulation prescribe what hours shall be deemed to be hours of work and what hours of work shall be deemed to be overtime hours for the purpose of such section 7 so as to ensure that no employee receives less pay by reason of the preceding sentence.

(d) In applying subsection (a) of this section with respect to any criminal investigator who is paid availability pay under section 5545a—

(1) such investigator shall be compensated under such subsection (a), at the rates there provided, for overtime work which is scheduled in advance of the administrative workweek—

(A) in excess of 10 hours on a day during such investigator's basic 40 hour workweek; or

(B) on a day outside such investigator's basic 40 hour workweek; and

(2) such investigator shall be compensated for all other overtime work under section 5545a.

(e) Notwithstanding subsection (d)(1) of this section, all hours of overtime work scheduled in advance of the administrative workweek shall be compensated under subsection (a) if that work involves duties as authorized by section 3056(a) of title 18 or section 37(a)(3) of the State Department Basic Authorities Act of 1956, and if the investigator performs, on that same day, at least 2 hours of overtime work not scheduled in advance of the administrative workweek.

(f) In applying subsection (a) of this section with respect to a firefighter who is subject to section 5545b—

(1) such subsection shall be deemed to apply to hours of work officially ordered or approved in excess of 106 hours in a biweekly pay period, or, if the agency establishes a weekly basis for overtime pay computation, in excess of 53 hours in an administrative workweek; and

(2) the overtime hourly rate of pay is an amount equal to one and one-half times the hourly rate of basic pay under section 5545b(b)(1)(A) or (c)(1)(B), as applicable, and such overtime hourly rate of pay may not be less than such hourly rate of basic pay in applying the limitation on the overtime rate

provided in paragraph (2) of such subsection (a).

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 485; Pub. L. 90-83, §1(24), Sept. 11, 1967, 81 Stat. 200; Pub. L. 90-206, title II, §222(a), Dec. 16, 1967, 81 Stat. 641; Pub. L. 90-556, §1, Oct. 10, 1968, 82 Stat. 969; Pub. L. 92-194, Dec. 15, 1971, 85 Stat. 648; Pub. L. 98-473, title I, §101(c) [title III, §322], Oct. 12, 1984, 98 Stat. 1837, 1874; Pub. L. 101-509, title V, §529 [title I, §101(b)(3)(E)], title II, §210(1), title IV, §410(a)], Nov. 5, 1990, 104 Stat. 1427, 1439, 1460, 1468; Pub. L. 102-378, §2(41), Oct. 2, 1992, 106 Stat. 1352; Pub. L. 103-329, title VI, §633(c), Sept. 30, 1994, 108 Stat. 2427; Pub. L. 104-52, title V, §531, Nov. 19, 1995, 109 Stat. 496; Pub. L. 105-277, div. A, §101(b) [title IV, §407(c)(2)], (h) [title VI, §628(a)(1)], div. G, subdiv. B, title XXIII, §2316(c)(2), Oct. 21, 1998, 112 Stat. 2681-50, 2681-102, 2681-480, 2681-519, 2681-829; Pub. L. 106-558, §2(a), Dec. 21, 2000, 114 Stat. 2776; Pub. L. 108-136, div. A, title XI, §1121, Nov. 24, 2003, 117 Stat. 1636; Pub. L. 111-383, div. A, title XI, §1105(a), Jan. 7, 2011, 124 Stat. 4383.)

HISTORICAL AND REVISION NOTES
1966 ACT

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
(a)	5 U.S.C. 911.	June 30, 1945, ch. 212, § 201, 59 Stat. 296. Sept. 1, 1954, ch. 1208, § 203, 68 Stat. 1109.
(b)	5 U.S.C. 912a. 5 U.S.C. 912b.	Sept. 1, 1954, ch. 1208, § 205(b), 68 Stat. 1110.

In subsection (a)(1), and (2), the word "officer" is omitted as included in "employee". The word "scheduled" is omitted since section 603 of the Act of Oct. 11, 1962, Pub. L. 87-793, 76 Stat. 847, eliminated the necessity of referring to rates as scheduled or longevity. References to the "Classification Act of 1949, as amended" are omitted as unnecessary.

In subsection (b), former sections 912a and 912b are combined and restated.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

<i>Section of title 5</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
5542(a)	5 App.: 911.	July 18, 1966, Pub. L. 89-504, §404(a), 80 Stat. 297.

The words "of the Classification Act of 1949, as amended" are omitted as unnecessary.

REFERENCES IN TEXT

GS-10 and GS-14, referred to in subsec. (a), are contained in the General Schedule which is set out under section 5332 of this title.

The Fair Labor Standards Act, referred to in subsec. (a)(6)(A), probably means the Fair Labor Standards Act of 1938, act June 25, 1938, ch. 676, 52 Stat. 1060, which is classified generally to chapter 8 (§201 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see section 201 of Title 29 and Tables.

Section 7 of the Fair Labor Standards Act of 1938, referred to in subsec. (c), is classified to section 207 of Title 29, Labor.

Section 37(a)(3) of the State Department Basic Authorities Act of 1956, referred to in subsec. (e), is classified to section 2709(a)(3) of Title 22, Foreign Relations and Intercourse.

¹ So in original. Probably should be capitalized.

AMENDMENTS

- 2011—Subsec. (a)(6). Pub. L. 111-383 added par. (6).
- 2003—Subsec. (a)(2). Pub. L. 108-136 inserted “the greater of” before “one and one-half” and “or the hourly rate of basic pay of the employee” before “, and all that amount”.
- 2000—Subsec. (a)(5). Pub. L. 106-558 added par. (5).
- 1998—Subsec. (e). Pub. L. 105-277, §101(b) [title IV, §407(c)(2)] and §2316(c)(2), amended subsec. (e) identically, substituting “title 18 or section 37(a)(3) of the State Department Basic Authorities Act of 1956,” for “title 18, United States Code.”
- Subsec. (f). Pub. L. 105-277, §101(h) [title VI, §628(a)(1)], added subsec. (f).
- 1995—Subsec. (e). Pub. L. 104-52 added subsec. (e).
- 1994—Subsec. (d). Pub. L. 103-329 added subsec. (d).
- 1992—Subsec. (a)(4). Pub. L. 102-378, §2(41)(A), substituted “officer,” for “officer (within the meaning of section 8331(20) or 8401(17)),” and realigned margin of closing provision.
- Subsec. (c). Pub. L. 102-378, §2(41)(B), amended second sentence generally. Prior to amendment, second sentence read as follows: “In the case of an employee who would, were it not for the preceding sentence, be subject to this section, hours of work in excess of 8 hours in a day shall be deemed to be overtime hours for the purposes of such section 7 and hours in a paid nonwork status shall be deemed to be hours of work.”
- 1990—Subsec. (a). Pub. L. 101-509, §529 [title I, §101(b)(3)(E)], inserted “(including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under section 5305 or similar provision of law)” after “GS-10” wherever appearing.
- Subsec. (a)(4). Pub. L. 101-509, §529 [title IV, §410(a)], added par. (4).
- Subsec. (c). Pub. L. 101-509, §529 [title II, §210(1)], added subsec. (c).
- 1984—Subsec. (b)(2)(B)(iv). Pub. L. 98-473 inserted “, including travel by an employee to such an event and the return of such employee from such event to his or her official-duty station”.
- 1971—Subsec. (a). Pub. L. 92-194 substituted “For full-time, part-time and intermittent tours of duty, hours” for “Hours”.
- 1968—Subsec. (a)(3). Pub. L. 90-556 added par. (3).
- 1967—Subsec. (b)(2)(B). Pub. L. 90-206 designated existing provisions as cls. (i) and (iii) and added cls. (ii) and (iv).

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-558, §2(b), Dec. 21, 2000, 114 Stat. 2777, as amended by Pub. L. 107-20, title II, §2605, July 24, 2001, 115 Stat. 178, provided that: “The amendments made by this section [amending this section] shall take effect on the date of enactment of this Act [Dec. 21, 2000].”

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-277, div. A, §101(b) [title IV, §407(d)], div. G, subdiv. B, title XXIII, §2316(d), Oct. 21, 1998, 112 Stat. 2681-50, 2681-102, 2681-829, provided that: “The amendments made by this section [amending this section and section 5545a of this title] shall take effect on the first day of the first applicable pay period—

“(1) which begins on or after the 90th day following the date of the enactment of this Act [Oct. 21, 1998]; and

“(2) on which date all regulations necessary to carry out such amendments are (in the judgment of the Director of the Office of Personnel Management and the Secretary of State) in effect.” [Jan. 29, 1999, see 64 F.R. 4517.]

Amendment by section 101(h) [title VI, §628(a)(1)] of Pub. L. 105-277 effective on first day of first applicable pay period which begins on or after Oct. 1, 1998, see section 101(h) [title VI, §628(e)] of Pub. L. 105-277, set out as a note under section 4109 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-329 effective first day of first applicable pay period beginning on or after 30th

day following Sept. 30, 1994, with exceptions relating to criminal investigators employed in Offices of Inspectors General, see section 633(e) of Pub. L. 103-329, set out as an Effective Date note under section 5545a of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-378 effective as of first day of first applicable pay period beginning on or after Oct. 2, 1992, see section 9(b)(9) of Pub. L. 102-378, set out as a note under section 6303 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 529 [title I, §101(b)(3)(E), title II, §210(1)] of Pub. L. 101-509 effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, §305] of Pub. L. 101-509, set out as a note under section 5301 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Section 3 of Pub. L. 90-556 provided that: “The amendments made by this Act [amending this section and section 5545 of this title] shall take effect on the first day of the first pay period which begins on or after the thirtieth day after the date of enactment of this Act [Oct. 10, 1968].”

EFFECTIVE DATE OF 1967 AMENDMENT

Section 220(a)(4) of title II of Pub. L. 90-206 provided that, except as otherwise expressly provided: “Sections 222 [enacting section 5733 of this title and amending this section, section 5544 of this title, section 3571 of Title 39, The Postal Service], and 223 [enacting section 5345 of this title] shall become effective thirty days after the date of enactment of this title [Dec. 16, 1967].”

§ 5543. Compensatory time off

(a) The head of an agency may—

(1) on request of an employee, grant the employee compensatory time off from his scheduled tour of duty instead of payment under section 5542 or section 7 of the Fair Labor Standards Act of 1938 for an equal amount of time spent in irregular or occasional overtime work; and

(2) provide that an employee whose rate of basic pay is in excess of the maximum rate of basic pay for GS-10 (including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under section 5305 or similar provision of law) shall be granted compensatory time off from his scheduled tour of duty equal to the amount of time spent in irregular or occasional overtime work instead of being paid for that work under section 5542 of this title.

(b) The head of an agency may, on request of an employee, grant the employee compensatory time off from the employee’s scheduled tour of duty instead of payment under section 5544 or section 7 of the Fair Labor Standards Act of 1938 for an equal amount of time spent in irregular or occasional overtime work. An agency head may not require an employee to be compensated for overtime work with an equivalent amount of compensatory time-off from the employee’s tour of duty.

(c) The Architect of the Capitol may grant an employee paid on an annual basis compensatory time off from duty instead of overtime pay for overtime work.